

Exhibit X

Cause #

16 Am. Jur. 2d Constitutional Law § 67

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Constitutional Law

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IV. Construction of Constitutions

A. General Rules of Construction

§ 67. Harmonizing constitutional amendments with antecedent constitutional provisions

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, Constitutional Law  600

In accordance with the general rule that harmony in constitutional construction should prevail whenever possible,¹ an amended constitution must be read as a whole as if every part of it had been adopted at the same time and as one law.² Effect should be given to every part of the constitution, as amended,³ and amendments should be construed so as to harmonize with other constitutional provisions⁴ rather than one that would create a conflict between them.⁵ In other words, the supreme court will consider a constitutional amendment as a whole and, when possible, adopt an interpretation of the language which harmonizes different constitutional provisions rather than an interpretation which would create a conflict between such provisions.⁶

A constitutional amendment is not to be considered as an isolated bit of design and color but must be seen as an integral part of the entire harmonious picture of the constitution.⁷ A new constitutional provision adopted by a people already having well-defined institutions and systems of law should not be construed as intended to abolish the former system, except insofar as the old order is in manifest repugnance to the new constitution, but such a provision should be read in the light of the former law and existing system.⁸

Repeal of a constitutional provision by implication is accomplished when a constitutional amendment takes up a whole subject anew and covers the entire subject matter of the original constitutional provision.⁹ In construing a constitutional provision, however, implied repeals are disfavored.¹⁰ Thus, if a constitutional amendment contains no express repeal or modification provisions, the old and the new provisions should stand and operate together if by so doing the intent of the lawmaking power as duly expressed in the later provision is not contravened.¹¹ Nonetheless, under some state constitutions, the intention of the

framers and the electorate to retain a prior constitutional provision must be explicit or clearly and unambiguously implicit in the current constitution in order to save the prior provision from repeal; a merely ambiguous suggestion of retention does not, as a general rule, justify further interpretation by a court in search of such intention.¹² Similarly, a constitutional amendment which takes the form of a repeal will not ordinarily be held to affect constitutional provisions to which the repealed provision was related.¹³

A court must seek to construe constitutional provisions in harmony, but when provisions cannot be harmonized, a specific section governs over a general section regardless of priority of enactment.¹⁴ Additionally, where a specific constitutional amendment provides an explicit textual source of constitutional protection against a particular sort of government behavior, the express provision, not the more generalized notion of substantive due process, controls the analysis.¹⁵

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Footnotes

- 1 § 66.
- 2 *Shamburger v. Duncan*, 253 S.W.2d 388 (Ky. 1952).
- 3 *State v. Gentry*, 125 Wash. 2d 570, 888 P.2d 1105 (1995).
- 4 *State ex rel. Johnson v. Gale*, 273 Neb. 889, 734 N.W.2d 290 (2007); *State v. Muhammad*, 145 N.J. 23, 678 A.2d 164 (1996).
Different sections of a constitution are to be construed as a whole in an effort to harmonize the various provisions. *Maupin v. Commonwealth*, 542 S.W.3d 926 (Ky. 2018).
- 5 *Patterson Recall Committee, Inc. v. Patterson*, 209 P.3d 1210 (Colo. App. 2009).
- 6 *Gessler v. Smith*, 2018 CO 48, 419 P.3d 964 (Colo. 2018), cert. denied, 139 S. Ct. 430, 202 L. Ed. 2d 318 (2018).
- 7 *Kirkpatrick v. King*, 228 Ind. 236, 91 N.E.2d 785 (1950).
- 8 *Sylvester v. Tindall*, 154 Fla. 663, 18 So. 2d 892 (1944).
- 9 *Bryant v. English*, 311 Ark. 187, 843 S.W.2d 308 (1992).
- 10 *State v. Gentry*, 125 Wash. 2d 570, 888 P.2d 1105 (1995).
- 11 *Wilson v. Crews*, 160 Fla. 169, 34 So. 2d 114 (1948).
- 12 *City of New Orleans v. Board of Com'rs of Orleans Levee Dist.*, 640 So. 2d 237 (La. 1994).
- 13 *Egbert v. City of Dunseith*, 74 N.D. 1, 24 N.W.2d 907, 168 A.L.R. 621 (1946).
- 14 *State ex rel. League of Women Voters of New Mexico v. Advisory Committee to the New Mexico Compilation Commission*, 2017-NMSC-025, 401 P.3d 734 (N.M. 2017).
- 15 *Elliott v. State*, 305 Ga. 179, 824 S.E.2d 265 (2019).